

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RACHEL IMPERIAL,)
Plaintiff,)
v.) Civil Action No.
GREENTREE SERVICING LLC (misnamed),)
Defendant.)

)

NOTICE OF REMOVAL

TO: The Honorable Judges of the United States District Court for the District of Massachusetts

Pursuant to 28 U.S.C. §§ 1441 *et seq.*, Defendant Green Tree Servicing, LLC (misnamed (“Green Tree”) hereby removes the action captioned Rachel Imperial v. Greentree Servicing LLC, PLCV-2013-00224-A, now pending in the Massachusetts Superior Court, Plymouth County, to the United States District Court for the District of Massachusetts. Green Tree states the following in support of this removal:

1. On February 28, 2013, Plaintiff Rachel Imperial (“Plaintiff”) filed an action in Massachusetts Superior Court, Plymouth County, against Green Tree. According to the state court docket, no other proceedings have occurred. Plaintiff served the Complaint and Demand for Jury Trial on Green Tree on March 13, 2013. A copy of all papers served on Green Tree are attached hereto as **Exhibit A.** Pursuant to 28 U.S.C. § 1446, removal of this case is, therefore, timely as this Notice is filed within (30) days of service of the Summons and Complaint on Green Tree.

2. This Court has original subject matter jurisdiction over this action on the basis of 28 U.S.C. § 1332.

3. First, there is complete diversity of citizenship between Plaintiff and Green Tree.

In her Complaint, Plaintiff identifies herself as a resident of Brockton, Massachusetts.

Complaint, ¶ 1. She identifies Green Tree as a Minnesota business entity with an address in St. Paul, Minnesota. *Id.*, ¶ 2. Indeed, Green Tree is foreign corporation organized under the laws of Delaware with a principal place of business in St. Paul, Minnesota. A copy of documents from the Secretary of State Corporations Division are attached hereto as **Exhibit B**.

4. Second, the amount in controversy exceeds \$75,000. Plaintiff's Complaint consists of three counts. She asserts claims for "Violation of the Massachusetts Consumer Protection Act, M.G.L. c. 93A § 2, et seq. and Massachusetts Debt Collection Regulations, 940 CMR § 7.00 et seq." (Count I), "Invasion of Privacy by Intrusion Upon Seclusion" (Count II), and intentional infliction of emotional distress (Count III). These claims all arise out of Plaintiff's allegations that Green Tree committed unfair and deceptive acts, engaged in harassment and employed abusive tactics in the collection of a debt that she incurred. Plaintiff seeks \$25,000 in single damages, and pursuant to Count I, has demanded that these damages be trebled to a total amount of \$75,000. Plaintiff also seeks to recover her attorney's fees pursuant to M.G.L. c. 93A. She also requests an additional award of unspecified punitive damages.

5. In calculating the amount in controversy, the Court should consider the total amount of monetary relief that plaintiffs seek to recover. See Dept. of Recreation & Sports v. World Boxing Ass'n, 942 F.2d 84, 90 (1st Cir. 1991). If a plaintiff is entitled to recover multiple damages and attorneys' fees under a statute, including M.G.L. c. 93A, those damages are part of the amount in controversy for the purpose of determining whether there is diversity jurisdiction.

See e.g., Waters v. Earthlink, Inc., 91 Fed. Appx. 697, 698-99 (1st Cir. 2003) (contemplating jurisdictional amount based on potential multiple damages award under M.G.L. c. 93A); Provanzano v. Parker, 796 F.Supp.2d 247, 252 (D. Mass. 2011) (considering multiple damages under M.G.L. c. 93A in determining whether amount in controversy had been satisfied). Likewise, attorneys' fees, which are recoverable under M.G.L. c. 93A, should also be considered in determining the amount in controversy. See Dept. of Recreation & Sports, 942 F.2d at 90 (noting that attorneys' fees may constitute part of the amount in controversy if authorized by law); Spielman v. Genzyme Corp., 193 F.R.D. 19, 21 (D. Mass. 2000) ("Reasonable attorneys' fees, however, can be included in an assessment of the amount in controversy when provided by statute.").

6. In this case, Plaintiff has asserted that she is entitled to recover \$25,000 and has requested that this amount be trebled under G.L. c. 93A to \$75,000. Additionally, Plaintiff requests attorneys' fees, some of which she has presumably already incurred by the filing of this suit. As a result, the amount in controversy exceeds \$75,000.

7. Pursuant to 28 U.S.C. § 1446, a copy of this Notice of Removal is being filed with the Massachusetts Superior Court.

8. Pursuant to Local Rule 81.1, Green Tree will file certified or attested to copies of all papers that have been filed in Superior Court.

WHEREFORE, Green Tree respectfully request that the above action now pending against it in the Plymouth County Superior Court in the Commonwealth of Massachusetts be removed therefrom to this Court.

GREEN TREE SERVICING LLC
By its attorneys,

/s/ Richard E. Briansky
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Dated: April 1, 2013

CERTIFICATE OF SERVICE

I, Richard Briansky, certify that a true and accurate copy of the foregoing document was filed through the Court's ECF system this 1st day of April 2013. I further certify that a true and accurate copy of the foregoing document was sent by overnight mail, postage prepaid to all parties to this action on April 1, 2013.

/s/ Richard E. Briansky